

PATENT

U.S. Appln. Ser. No.: 09/410,484
Attorney Docket No. NATNUT-03972

For the Examiner's convenience, a clean version of the entire set of pending claims pursuant to 37 C.F.R. §1.121(c)(3) is attached hereto at the end of this communication. (Appendix 1). The Applicants respectfully request reconsideration of the application in view of the following remarks.

REMARKS

Claims 1-3, 7, and 9 are pending in the present application. Applicants appreciatively acknowledge the February 20, 2002, Advisory Action mailed in response to their February 3, 2002, communication. Over the course of several conversations with the Examiner following the Applicants' February 3, 2002, communication, and the February 20, 2002, Advisory Action, the Examiner suggested that the Applicants yet again repeat their October 15, 2001, request for consideration of the fact based Declaration of Drs. Hong and Ip ("the Declaration"), and in particular, show that the experiments discussed in the Declaration were controlled for weight. On April 18, 2002, Applicants filed an additional communication specifically addressing the Examiner's suggestion and again requesting that the Examiner consider the Declaration. Subsequently, Applicants attempted to contact the Examiner several times to discuss her reconsideration of the Declaration and to discuss the status of the application. None of the Applicants' attempts to contact the Examiner were answered.

* Applicants submit that the Examiner's apparent failure to fully consider the Declaration and the Examiner's failure to adequately and specifically state her reasoning for arguing that the experiments described in the Declaration were not controlled for weight, is contrary rules set forth in the Manual of Patent Examining Procedure for responding to fact based declarations, as well as contrary to Federal Circuit precedent. Applicants have already directed the Examiner's attention to the relevant Patent Office rules and Federal Circuit precedent.

✓ ¹ "The examiner has reviewed the declaration paper no. 15, filed 02/04/2002 [the Hong and Ip Declaration was originally filed with Applicants' October 15, 2001, Preliminary Amendment]. The experiment, although convincing regarding the relationship between hypertension and CLA, was not controlled for weight such a showing would render the case allowable." (February 20, 2002, Advisory Action).

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Applicants again herein respectfully request that the Examiner consider the fact based Declaration in view of the requirements set forth in the MPEP and Federal Circuit case law for responding to fact based declarations.

Conclusion

It is respectfully submitted that the invention as claimed fully meets all requirements for patentability and that the claims are worthy of allowance. Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicant encourages the Examiner to call the undersigned collect at (608) 218-6900.

Dated: May 31, 2002


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APPENDIX 1

1. A method of treating hypertension in humans comprising:
 - a) providing a subject and a composition comprising a safe and effective amount conjugated ^{CLA}linoleic acid; and
 - b) administering said conjugated linoleic acid composition to said subject under conditions such that blood pressure of said subjects is reduced.
2. The method of Claim 1 wherein the conjugated linoleic acid composition is a mixture of octadecadienoic acid isomers selected from the group of cis-9, trans-11; cis-9, cis-11; trans-9, cis-11; trans-9, trans-11; cis-10, cis-12; cis-10, trans-12; trans-10, cis-12; trans-10, trans-12 octadecadienoic acid.
3. The method of Claim 1 wherein the ^{CLA}conjugated linoleic acid composition consists essentially of octadecadienoic acid isomers selected from 9,11 octadecadienoic acid, 10,12 octadecadienoic acid, and mixtures thereof.
7. The method of Claim 1 wherein the conjugated linoleic acid is administered orally.
9. The method of Claim 1 wherein said safe and effective amount of conjugated linoleic acid is about 0.1 grams to 20 grams.

100 mg to 20,000 mg !

- cls. reji. # presented for examination are 1-3, 7 & 9.
- other claims are non-elected.

NOTE * Appl. election C traverse.